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# V. Other Multilateral Activities

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## **Semiconductor Agreement**

The United States and Japan negotiated a new bilateral semiconductor agreement which came into effect on August 2, 1996, replacing the 1991 U.S.-Japan Semiconductor Arrangement. The new agreement encourages progress in improving market access and industry cooperation and helps to solidify the gains of recent years. Under the August 1996 agreement, the U.S. and Japanese Governments no longer jointly calculate the foreign share of Japan's semiconductor market, but the U.S. Government continues to calculate and announce the market share unilaterally. During 1998, the U.S. Government announced a 33.3 percent average annual foreign share for 1997, and shares exceeding 30 percent for both the first and second quarters of 1998. The current agreement is scheduled to expire July 31, 1999.

The heart of the 1996 agreement is an industry-to-industry agreement which provides for a continuation of the industry cooperative activities that existed under the 1991 agreement and expansion of such cooperation to new areas such as standards, intellectual property rights, trade liberalization, environmental and safety issues, and market development. In addition, the 1996 agreement calls on industries to provide quarterly market reports and analysis. Under the government-to-government agreement, the United States and Japan then review these activities and monitor the situation in the Japanese and other major markets. The industry and government agreements provide for participation by other interested governments and industries, who have eliminated semiconductor tariffs or are committed

to eliminate such tariffs expeditiously. The agreement also sets up consultations in which governments and authorities of important semiconductor producing countries/economies meet annually to discuss semiconductor policy issues.

Separately, in December 1996, the U.S. and Japanese semiconductor industries concluded a bilateral agreement on dumping consistent with the provisions of the August 1996 agreement reaffirming the need to avoid injurious dumping through effective and expeditious antidumping measures consistent with the GATT and WTO Antidumping Agreement.

In April 1997, the EU and Korea agreed to eliminate their semiconductor tariffs by 2000 and were invited to participate in the industry-to-industry agreement and in the government consultations. At the consultations, the governments receive and review reports from the industries on market size, market growth, and cooperative activities conducted under the industry-to-industry agreement. The governments also discussed market trends, developments, competitiveness, foreign participation in markets, and government policies affecting the semiconductor industries.

## **Trade and the Environment**

In 1998, USTR continued its efforts to ensure that trade and environmental policies are mutually supportive, reflecting the Administration's continuing commitment to sustainable development. In pursuit of this objective, USTR participated both in multilateral economic fora and in

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international environmental agreements, in conjunction with other U.S. agencies. In addition, USTR worked bilaterally with U.S. trading partners to avert or minimize potential trade disputes arising from foreign and U.S. environmental regulations.

## **Multilateral Fora**

The WTO Committee on Trade and Environment (CTE) met three times over the course of 1998, pursuant to its mandate, as spelled out in the Uruguay Round Agreements. The Committee reviewed the full range of trade and environment issues on its agenda and continued to deepen Members' understanding of these issues. The United States contributed to this process, *inter alia*, by playing a leadership role in discussions on the relationship between fisheries subsidies and the environment as well as on the impact of liberalization of trade in environmental goods and services. In addition, the WTO Secretariat organized a Symposium on Trade and Environment that served as a valuable opportunity for Committee members to exchange views with environment, development and business NGOs. At the WTO's Second Ministerial Conference in May 1998, President Clinton called on the WTO to hold a high-level meeting on trade and environment to give new energy and direction to the work of the WTO in this area. In December 1998, we achieved agreement to hold such a meeting in March 1999.

During the course of the negotiations on the Multilateral Agreement on Investment (MAI), the United States played a leadership role in tabling and gaining support for provisions to address environmental concerns. Although the MAI negotiations were suspended last fall, we believe that we will be able to draw upon the progress that was made on environment issues during these discussions as investment issues are taken up in other fora.

USTR, working with other U.S. agencies, has also worked in support of better theoretical work on the liberalization of the environmental goods and

services sector, both in the CTE and in the OECD's Joint Session of Trade and Environment Experts. The latter group has just completed an extensive report on identifying and assessing barriers to trade in environmental services, which will be useful for the WTO Services 2000 negotiations, set to begin next year.

USTR also participated, with other agencies, in conferences of the parties to various multilateral environmental agreements, in order to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. For instance, USTR has been actively involved in interagency work on the Convention on Biological Diversity, including participating in negotiations aimed at a Biosafety Protocol (which will include an "advanced informed agreement" requirement for exports of certain genetically-modified organisms). In addition, USTR has been involved in interagency work on chemical safety issues, including the negotiation of a Prior Informed Consent Agreement (for exports of hazardous chemicals to developing countries) and a proposed agreement on global action regarding Persistent Organic Pollutants. USTR also participates actively in U.S. policymaking regarding the implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Transboundary Movement of Toxic Wastes, and the Framework Convention on Climate Change.

USTR also led the U.S. Government's participation in UNCTAD's work on trade and environment, where progress was made in identifying the benefits to developing countries of liberalization of trade in environmental goods and services.

## **The NAFTA**

The Administration's commitment to integrating trade and environmental policy concerns is reflected in the North American Agreement on Environmental Cooperation (NAAEC) and the Border Environment Funding Agreement, which the President presented to Congress as part of the

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NAFTA package in November 1993. These agreements were designed to ensure that expanded trade does not take place at the expense of the environment. The institutions created by these agreements have already made important contributions to improving the North American environment, and USTR continues to work actively with the agencies that lead U.S. participation in them.

The Border Environment Cooperation Commission and the North American Development Bank have approved a series of loans, loan guarantees and grants to help finance sorely needed infrastructure projects along the U.S.-Mexico border. The environmental issues facing the three NAFTA parties existed long before the NAFTA, but NAFTA's environmental institutions have improved our ability to address North American environmental problems in real ways.

The Commission for Environmental Cooperation (CEC), the Ministerial-level Council that oversees the trilateral environment agreement, has generated progress on numerous fronts. The CEC has begun work on an array of environmental projects, encompassing such diverse objectives as tracking hazardous wastes to ensure they are disposed of properly, identifying sources of pollution, and promoting efforts to protect habitat for migratory birds. Through the CEC, Mexico has now joined the United States and Canada in banning the toxic pesticides DDT and chlordane, thus helping to ensure they no longer cross our borders. In addition, a significant portion of the CEC's annual work program was devoted to trade and environment issues in 1998. As part of this work program, the CEC has undertaken a multiyear study of the environmental effects of NAFTA.

## **APEC, the Western Hemisphere and the European Union**

The United States has been a leader in activities to

identify areas where a focused effort on trade liberalization can also yield environmental benefits. One example is in environmental goods and services. The United States pushed to have this sector included in APEC's Voluntary Sectoral Liberalization Initiative, which is working to accelerate efforts to remove both tariff and nontariff barriers in nine key industrial sectors. The work on removing tariff barriers in these sectors, including environmental goods, has now moved from APEC to the WTO.

More generally, as part of our goal of ensuring that trade liberalization takes place in the context of sound environmental protection regimes, the United States has led efforts to further regional environmental cooperation in both APEC and the Western Hemisphere, where the 34 democracies of the Hemisphere have committed through the Summit of the Americas process to establish the Free Trade Area of the Americas (FTAA). In each forum, the region's environment ministers have pursued an active agenda of environmental initiatives. In APEC, the United States has taken the lead on implementing two of three sustainable development initiatives launched at the July 1996 Environment Ministerial, those concerning "clean production" and the marine environment. Another related activity is on "sustainable cities." At the 1996 Bolivia Sustainable Development Summit, the United States and other hemispheric leaders forged a comprehensive plan of action covering health and education (as they relate to the environment), sustainable agriculture and forests, sustainable cities and communities, water resources and coastal areas, and energy and minerals. These initiatives, undertaken in tandem with the APEC and the Summit of the Americas initiatives, can serve as complementary regional trade liberalization activities.

In 1998, the United States and the European Union established an Environment Group within the Transatlantic Economic Partnership (TEP) negotiations. The Environment Group will bring together officials from trade and environment agencies in an effort to develop common

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approaches on trade and environment issues, ensure that environmental considerations are fully reflected in the TEP, and enhance cooperation between U.S. and European regulators on environmental issues with trade implications.

## Other Issues

In 1998, USTR defended from a WTO challenge a U.S. law restricting imports of shrimp harvested in a manner that may adversely affect certain endangered species of sea turtles. In October, the WTO Appellate Body issued a report reversing the April 1998 findings of the WTO dispute settlement panel. The Appellate Body agreed with the United States that the U.S. shrimp-turtle law is covered by an exception to WTO rules for measures relating to the conservation of exhaustible natural resources, but it faulted the way in which the law was administered. The report confirms that WTO member countries can condition access to their markets on compliance with policies such as environmental conservation, so long as these market access restrictions are administered in an even-handed manner and do not amount to disguised protectionism. Moreover, in an important procedural ruling, the Appellate Body reversed the panel's findings on *amicus curiae* briefs, and affirmed that WTO rules permit panels to consider such briefs from non-governmental environmental organizations and other interested parties.

After consulting with Congress, and reviewing input received from interested members of the public, we advised the WTO on November 25 that we intend to comply with the Appellate Body's recommendations, and to do so in a manner that is consistent with our firm commitment to the protection of endangered sea turtles.

## Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is the primary forum for the discussion of economic and social issues confronting its members, which include the United States, Canada, Mexico, Western Europe, Japan, Australia, and New Zealand. The Czech Republic joined the OECD in 1995 and Korea, Hungary, and Poland in 1996, bringing total OECD membership to twenty-nine. Slovakia is currently negotiating membership, and Argentina and Russia have also formally applied to join. The OECD has a program of cooperation with Russia, the purpose of which is to support Russia's efforts to establish a fully-fledged market economy and its eventual membership in the OECD.

The OECD was founded in 1960 as the successor to the Organization for European Economic Cooperation, which oversaw European participation in the Marshall Plan. Its fundamental objective is "to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries while maintaining financial stability and thus to contribute to the world economy." This objective is pursued through in-depth analysis of economic problems confronting the developed market economies and the development of cooperative solutions to many of these problems. Members have negotiated binding agreements in certain areas not adequately addressed in other fora.

Analysis of issues in the OECD often is instrumental in forging a consensus among OECD countries to pursue certain negotiating goals in other international fora such as the WTO. Work in the OECD is generally credited for the success of a number of key negotiating issues in the Uruguay Round -- agriculture in particular, but also trade in services, trade-related investment measures, and trade-related intellectual property rights.

## Work Program

In 1998, the OECD Trade Committee continued to

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address a number of issues of significance to the multilateral trading system. In preparation for future negotiations, OECD countries have focused increasingly on non-border restraints to market access and on the nexus between trade policy and other international policy objectives. As a result, the OECD's trade work has become more diverse, dealing with traditional trade issues as well as those which have been traditionally within the purview of domestic policy discussions. Key projects include studies on the benefits of ongoing trade liberalization, ratification and monitoring of the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions, negotiations on a Multilateral Agreement on Investment (MAI), and the OECD Trade Committee's analysis of trade in relation to labor standards and the environment.

## **Benefits of Trade Liberalization**

OECD Ministers, at the 1997 Ministerial, called on the OECD to produce "a focused, multi-disciplinary report explaining the benefits of trade and investment liberalization." This report, entitled "Open Markets Matter: the Benefits of Trade and Investment Liberalization," was released in April 1998. The report seeks to better communicate the clear net benefits to society of continuing on the path of trade liberalization and market-led reforms. Given the changes in today's global economy, and the anxieties that these types of changes often generate, the report is an important contribution to informed public debate on the implications of further trade liberalization. In view of the success of this report, the OECD Executive Committee in Special Session (ECSS) has called for an OECD study on the benefits to developing countries of open markets and ongoing liberalization.

## **Criminalization and Non-tax-deductibility of Bribery**

On November 21, 1997, negotiators from 34 countries (the 29 OECD member states and 5 other nations--Argentina, Brazil, Bulgaria, Chile, and the Slovak Republic) adopted a Convention on Bribery of Foreign Public Officials in International Business Transactions at the OECD. The United States led the international efforts to conclude this agreement. The Convention was signed by representatives of participating countries on December 17, 1997, in Paris. Secretary of State Madeleine Albright signed on behalf of the United States.

The Convention is an historic achievement in the fight against bribery. The Convention obligates the Parties to criminalize bribery of foreign public officials in international business transactions. This is defined to include officials in all branches of government, whether appointed or elected; any person exercising a public function, including for a public agency or public enterprise; and any official or agent of a public international organization. Although the text does not specifically cover political parties, the Convention will cover business-related bribes to foreign public officials made through political parties and party officials, as well as those bribes to corrupt foreign public officials which they direct to political parties.

The Convention requires "effective, proportionate, and dissuasive criminal penalties" for those who bribe foreign public officials. Countries whose legal systems lack the concept of criminal corporate liability must provide for equivalent non-criminal sanctions, including monetary penalties. It also requires that countries be able to seize or confiscate the bribe and bribe proceeds (i.e., net profit), or property of similar value, or that monetary sanctions of comparable effect be applicable. Finally, the Convention provides that the Parties will cooperate in a follow-up program, in the framework of the OECD, to monitor and promote full implementation.

Negotiators agreed to an accelerated work plan to address several outstanding issues related to the Convention, including acts of bribery relating to

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foreign political parties and to persons in anticipation of their becoming foreign public officials. The results of this review will be reported to Ministers by the 1999 OECD Council meeting.

The U.S. Senate approved the Convention in July 1998, and Congress passed implementing legislation in October. The ratification of the Convention by Canada, on December 17, 1998, ensured that the Convention would enter into force on February 15, 1999. The Convention required ratification by five of the ten largest OECD countries, representing at least 60 percent of those countries' combined exports, in order for the Convention to enter into force.

## **Export Credits**

The OECD Trade Directorate is responsible for monitoring multilateral export credit disciplines. An "arrangement" by OECD countries governs the terms to be offered and limits conditions under which both official export credits on market-related terms and tied export credits can be offered. The monitoring function keeps all member states informed of others' activities, and the organization serves as a forum for consultations on specific projects and on interpretation of the rules.

## **Multilateral Agreement on Investment Negotiations**

Negotiations to conclude a multilateral investment agreement had been underway since May 1995.

Notwithstanding the substantial progress which had been achieved in the refinement of basic investment principles, participants in the Multilateral Agreement on Investment (MAI) suspended negotiations in October of 1998 following the withdrawal of France in light of significant differences of view in the nature and extent of acceptable exceptions to the agreement, and the need for further consideration of concerns raised by environment and labor interests. Member countries

have not as yet made any formal decisions on how best to proceed on all of these issues, but many members are interested in the OECD continuing to perform substantive analytic work on the range of issues that the MAI negotiation raised.

## **Trade and Labor Standards**

At the May 1996 OECD Ministerial, the OECD Secretariat released a report on "Trade, Employment and Labor Standards." The United States actively participated in discussions to develop this report, and considered it an important background for the discussion at the WTO Singapore Ministerial Conference of a WTO political declaration on the relationship between trade and labor standards.

The report examined the relationship between core labor standards and economic development and trade. These core labor standards are: freedom of association; collective bargaining; elimination of exploitative forms of child labor; prohibition of forced labor; and non-discrimination in employment. The report concluded that a mutually reinforcing relationship exists between core labor standards and trade liberalization. It refuted the long-standing argument that adherence to such standards negatively effects the economic performance of developing countries; indeed, it reinforces long-term development prospects. The report also called for the International Labor Organization (ILO) to take the lead in promoting core labor standards worldwide.

In October 1997, Labor Ministers from the 29 OECD countries met to discuss policies to address labor market problems in their respective countries. At this meeting, the Labor Ministers reaffirmed their commitment to observe internationally recognized labor standards and provided important analytical input to negotiations in the ILO on these issues. The ILO negotiations culminated in the June 1998 "ILO Declaration of Fundamental Principles and Rights at Work."

## **Shipbuilding**

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In July 1994, the OECD completed the Agreement Respecting Normal Competitive Conditions in the Shipbuilding and Repair Industry, subject to referendum of participating governments. The Agreement, which covers the construction and repair of self-propelled seagoing vessels of 100 gross tons and above, has four key elements: (1) the elimination of virtually all subsidies granted either directly to shipbuilders or indirectly through ship operators; (2) the extension of injurious pricing (dumping) rules to shipbuilding; (3) the establishment of strict rules for official domestic and export financing; and (4) an effective, and binding, dispute settlement mechanism.

The Agreement was signed on December 21, 1994, by the United States, the EU, Korea, Japan and Norway. These countries account for about 80 percent of world commercial shipbuilding. The Agreement requires ratification by all of these countries before it can enter into force. For the United States, ratification requires the passage of implementing legislation by the Congress. The EU, Korea, and Norway ratified the Agreement in December 1995. Japan completed its ratification process in May 1996, leaving the United States as the sole non-ratifying party.

Attempts were made during the 104<sup>th</sup> Congress to pass legislation allowing for U.S. ratification of the OECD Shipbuilding Agreement, but were not successful. Similarly, legislative initiatives of the 105<sup>th</sup> Congress were unsuccessful despite the fact that on July 31, 1998, the Senate Finance Committee reported out legislation (S. 2400) which would implement the OECD Shipbuilding Agreement as part of an omnibus trade bill. Senators Breaux and Lott have promised a similar ratification bill in the 106th.

## Regulatory Reform

At their May 1997 meeting, OECD Ministers agreed to a work program focusing on how

governments can improve their regulations and regulatory processes. Under this work program, the OECD began conducting reviews of regulatory reform efforts in member countries in 1998, based in part on self-assessment. The United States has supported the OECD's regulatory reform efforts as a way to raise the profile of the problems posed by the regulatory regimes of many OECD countries to our exporters' market access; to demonstrate that the benefits of regulatory reform (e.g., creation of due process and transparency) can lead to greater market openness and competition and more effective achievement of important policy goals; to encourage consideration of discussion among OECD members regarding possible solutions to market access problems caused by regulation and regulatory heterogeneity; and to promote growth in member economies through domestic efficiency gains and thereby increase demand for U.S. exports.

The Trade Committee's work on regulatory reform as related to trade policy is focused on three general areas: principles, measurement, and harmonization. Through its work program on principles, the Trade Committee has established principles of market openness in the regulatory reform context that can be used as indicators or benchmarks for the country reviews of market openness and regulatory reform. These principles include transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictions; use of internationally harmonized measures where available/appropriate; recognition of the equivalence of other countries' procedures for conformity assessment where appropriate; and application of competition principles.

In its work in progress on measurement, the Trade Committee will develop a business survey to measure the business costs arising from (1) divergent product standards, and (2) duplicative conformity assessment procedures across countries. The work on harmonization will identify areas where international product standards have been out-dated or insufficient, and it will attempt to

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provide future understanding of how the process of international standards development can be strengthened.

In 1998, the Working Party of the Trade Committee completed country reviews of regulatory reform in the United States, Japan, Mexico, and the Netherlands. Based on this work, a high-level multi-disciplinary review of these countries will take place on March 8-9, 1999. In 1999, the Working Party will review regulatory reform in Korea, Spain, Denmark, and Hungary.

## **Competition Policy**

In 1998, the Joint Group on Trade and Competition continued its work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as other fora, such as the WTO. Using a combination of hypothetical case studies and the particular conceptual approaches taken by both trade policy and competition policy experts, the Group continued its consideration of the role played by vertical restraints in relation to the questions of competition in domestic markets and access to such markets by foreign exporters. The Group has also continued to share views and experiences on various kinds of international cooperation and enforcement activities in the fields of both competition policy and trade policy. On the basis of these exchanges, the Joint Group has endeavored to carry its work to a more extensive, and intensive, evaluation of: (i) the competition elements in international trade agreements; (ii) the complementarities and differences between trade and competition policies; and (iii) whether it is feasible to identify core principles and minimum standards for competition laws and determine whether bilateral or multilateral approaches are more conducive to achieving improved cooperation and coherence to

address those anti-competitive practices that have an international dimension.

## **Analysis of Trade and Nontariff Barriers**

In order to support continued trade liberalization, the Trade Committee has continued its analysis of the tariff and nontariff regimes of OECD countries and of a number of major non-OECD countries. A key objective is to seek to identify sectors and product groups on which future negotiations might focus. Studies on the tariff regimes of OECD countries and selected non-OECD countries were prepared and reviewed in 1998. The Trade Committee continues to work on methodologies for assessing nontariff barriers.

## **Global Government Procurement Markets**

Given the lack of data available on the size of government procurement markets, the Trade Committee initiated in 1997 a project to analyze the economic value of government procurement markets. This ongoing project will seek to measure the value of government procurement markets, with particular emphasis on the development of a common methodology for collecting government procurement data and on examining the size and growth potential of procurement markets in major non-OECD economies.

## **Trade and Environment**

The OECD Joint Experts group on Trade and Environment continues its analytical work in areas where trade and environmental policies intersect. In the past year, the group completed work on a number of long term projects, including sectoral studies of the effects of trade liberalization in key sectors such as environmental goods and services and fossil fuels. It also completed a paper synthesizing the results of three earlier case studies on the use of trade measures in multilateral environmental agreements. In the first part of 1999, the group will submit a report of its past work and a work plan for the period 1999-2001 to the ministerial council meeting in May.



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## Non-member Countries

The Trade Committee has continued its contacts with non-member countries to encourage the integration of developing and transitional economies into the multilateral trade regime. To date, this work has focused on the integration of the Central and Eastern European Countries, the Newly Independent States of the Former Soviet Union (NIS), and the Dynamic Non-Member Economies or “DNMEs” (leading developing economies in Asia and South America).

In 1998, the OECD organized a workshop on “The Benefits of Trade and Investment Liberalisation” with experts from governments, business and civil society of twenty of the largest trading nations from the developing world and transition economies. Discussions were based on the OECD Secretariat’s report on “Open Markets Matter: The Benefits of Trade and Investment Liberalisation.”

In 1998, the Trade Committee’s Working Party met with Russia and its three Customs Union partners – Kazakhstan, Belarus and Kyrgyzstan – to discuss trade policy developments in those countries. Subsequently, the Working Party held a meeting with Russia to consider Russian overall trade policy issues, with a focus on federal-regional relations, trade in services, and the impact of the financial crisis.

